

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on March 20, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 46, HB 636, HB 635,
3/15/2001
Executive Action: HB 617, HB 428, HB 591

HEARING ON SB 46

Sponsor: SEN. AL BISHOP, SD 9, BILLINGS

Proponents: Neil Peterson, Customer Service Center Department
of Revenue

Opponents: None

Opening Statement by Sponsor:

SEN. AL BISHOP, SD 9, BILLINGS, said this legislation works with levies upon wages. He explained the savings this bill would offer. He added the levy upon wages would be good under the pay period in which it is levied and be provided to remain in effect for 120 days.

Proponents' Testimony:

Neil Peterson, Customer Service Center, Department of Revenue, stated this bill would streamline the process associated with wage garnishments.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. VERDELL JACKSON referred to page two of the bill and asked why the language would not reflect a year and six months rather than 120 days. SEN. BISHOP said under this bill it is only good for 120 days to not allow the department advantage over a private collector.

Closing by Sponsor:

SEN. AL BISHOP, SD 9, BILLINGS, closed on his bill.

HEARING ON HB 636

Sponsor: REP. DANIEL FUCHS, HD 15, BILLINGS

Proponents: Webb Brown, MT. Chamber of Commerce
Charles Brook, Chamber of Commerce, Billings

Opponents: Don Judge, MT. AFL-CIO
Art Loendorf, MT. Farmers Union

Informational Witnesses: **Gordan Morris, MT. Association of Counties**

Mike Fellows, Libertarian Party

Opening Statement by Sponsor:

REP. DANIEL FUCHS, HD 15, BILLINGS, presented the committee a table of contents for HB 636 **EXHIBIT(tah63a01)**. He stated this would enact the 4% sales tax to eliminate the individual income tax. He believed this legislation would create jobs for taxpayers. He explained the reasons for the bill and the need to increase job opportunities for the state. He mentioned the coordinating language with this legislation and HB 635. The owner occupied residential properties would be moved into a class level by themselves as a tax relief to homeowners. He reviewed the fiscal note drafted with the bill and pointed out the increasing F.T.E.s.

Proponents' Testimony:

Webb Brown, MT. Chamber of Commerce, advocated the potential of a sales tax for relief of the income tax for the state. He believed this would be a good direction for the state to move into.

Charles Brook, Chamber of Commerce, Billings, read the philosophy of the Billings Chamber of Commerce. He felt the present system of taxation needed to be restructured.

Opponents' Testimony:

Don Judge, AFL-CIO, talked about the current tax structure and believed this system assisted in the ability to pay. He mentioned e-commerce and how it was effecting the government. He pointed to sections of the bill that would be exempted.

Art Loendorf, MT. Farmers Union, opposed this legislation and didn't think it would benefit the state.

Informational Witnesses:

Gordan Morris, MT. Association of Counties, felt the issue needed work on. He supported tax reform and would work with the committee to provide a package that would assist the state.

Mike Fellows, Libertarian Party, presented written testimony **EXHIBIT(tah63a02)**.

Questions from Committee Members and Responses:

REP. RON ERICKSON does this particular bill properly drafted. **Charles Brooks** admitted he was in favor of a sales tax. He felt his testimony would convey how there was a need for this bill.

REP. JOE BALLYEAT asked if sales taxes were deductible in regard to businesses on their returns. **Don Judge** didn't know if that was the case of deducting a sales tax.

REP. BALLYEAT asked if for a business entity, would a tax be deductible on a return. **Don Judge** said it is the impact on the individuals.

REP. BALLYEAT asked for a non-corporation, would they be able to deduct an income tax. **Don Judge** deferred to the sponsor.

REP. BALLYEAT asked about shareholders paying income taxes and if that would not available any more. **REP. FUCHS** answered that was correct.

REP. BALLYEAT asked if this included the partnerships. **REP. FUCHS** said all that was listed within the bill would be included.

REP. BALLYEAT asked about exemptions. **REP. FUCHS** said individuals would deal with double taxation.

REP. BALLYEAT referred to the fiscal note and asked if the sponsor would be open to an amendment offering a tax break. **REP. FUCHS** said his intention would be to reduce the property tax and funding would be available for higher education.

REP. GARY FORRESTER wondered about states experiencing difficulties with sales taxes and asked if there would be safeguards applied. **Don Hoffman, Department of Revenue**, explained the multi-sales tax commission.

REP. FORRESTER asked the amount taken into account for e-commerce. **Don Hoffman** worked on the administration side of this and he didn't know what was taken into account. **Larry Finch, Department of Revenue**, explained how the estimate was developed.

REP. VERDELL JACKSON asked to elevate concerns of the sales tax. **REP. FUCHS** said he couldn't elevate any concerns. He said it would be at a constitutional cap of 4%.

REP. KARL WAITSCHIES asked to address the standards or limitations of credits. **REP. FUCHS** said there were some credits that would carry over.

REP. DAVE WANZENRIED asked about the effective date of the bill. **REP. FUCHS** said it was the next biennium effective date.

REP. WANZENRIED referred to page nine and asked about the sales cap for consumers. **REP. FUCHS** said that was not his intention and it could be taken out.

REP. WANZENRIED asked for steps of the process for vendors collecting tax and responsibilities. **REP. FUCHS** gave examples and said they would receive 1 ½%.

REP. WANZENRIED asked if that was sufficient enough to collect for large businesses. **REP. FUCHS** couldn't answer that question.

REP. ERICKSON asked about certified public accountants and if there services would be taxed. **REP. FUCHS** answered yes.

REP. ERICKSON asked if the service of the hospital would be a tax. **REP. FUCHS** looked through the bill to locate the services section.

REP. BALYEAT asked about low income families paying sales taxes. **Webb Brown** said the tax system would become a burden. He mentioned the exemptions and how the families may use the tax system.

REP. BALYEAT asked if an amendment could be added for non-profit organizations. **REP. FUCHS** said he was open to an amendment, but added the more changes to the bill the more they would have to deal with revenue changes.

REP. BALYEAT wondered about changing the section pertaining to the referendum. **REP. FUCHS** answered yes, he was worried about changing the referendum section. He felt they needed to use the numbers offered and wanted to move the state forward with economic growth through a sales tax.

CHAIRMAN STORY referred to the fiscal note and asked what departments were impacted within this note. **Don Hoffman** said this may impact the Department of Revenue. He explained the F.T.E.'s and costs involved.

CHAIRMAN STORY asked about item 16 of the fiscal note. He wondered about the corporate licensing tax. **Don Hoffman** said

these departments were in there due to the tax and the increase is due to administer the sales tax.

CHAIRMAN STORY asked what the total change over was and what the net employee change would be within the department. **Don Hoffman** answered he did not have the numbers available.

REP. FORRESTER pointed to page 13 of the bill and asked about exemptions for agriculture. **REP. FUCHS** referred to the agricultural exemptions and said it wouldn't apply to this example.

REP. FORRESTER wondered about the potential for abuse of personal effects. He asked how these would be filed and if people would be exempted from their personal effects. **Don Hoffman** said there was that possibility. He said there is an opportunity for abuse.

CHAIRMAN STORY asked if other states were exempted from our state's sales tax. **Don Hoffman** answered no and added currently there is an exemption for this state because there is no sales tax.

REP. TRUDI SCHMIDT asked how these exemptions worked out. **REP. FUCHS** explained who was on the committee and worked with these exemptions. **Spook Stang, Lobbyist**, mentioned the tax study and explained the exemptions.

REP. SCHMIDT asked if they compared other states. **Spook Stang** stated they did look at other states taxes and how the sections were broken down in subcommittee.

REP. SCHMIDT wondered about book stores and if they would be an example of a sales tax. **REP. FUCHS** said within that section they would be exempted. He added they needed to look at other states more to make comparisons.

{Tape 2; Side A}

REP. JOAN ANDERSON was concerned about the reinstating the tax at higher rates. **REP. FUCHS** referred to a section dealing with the insurance bond offering a sunset clause.

REP. JESS LASLOVICH wondered about the e-commerce effect on low income people. **REP. FUCHS** said it would continue as it has been with the success of the internet.

REP. LASLOVICH asked about the tax study. **REP. FUCHS** said he had visited with the speaker regarding the tax committee.

CHAIRMAN STORY asked for the explanation of a use tax. **Dave Boyer** said it applies to the purchases made and to a service a tax was made. He gave examples.

CHAIRMAN STORY asked if it was an attempt to utilize the use of the tax. **Dave Boyer** answered, that was correct.

CHAIRMAN STORY asked if it was harder to collect a use tax instead without an income tax to audit back through. **Dave Boyer** didn't know the answer to this question. **Don Hoffman** said the use tax is credited back through the income tax in other states.

{Tape 1; Side B}

CHAIRMAN STORY asked about replacing an income tax and how to sell this issue. **REP. FUCHS** said he tried to show more people could pay less in taxes.

CHAIRMAN STORY said many of the exemptions in the bill would go through a manufactured process. He asked if there was an exemption in the bill relating to equipment. **REP. FUCHS** believed equipment that was producing was exempted.

CHAIRMAN STORY asked if a new class of residential property was added. **REP. FUCHS** answered yes, there was a class added.

REP. FORRESTER wondered about a construction industry and the tax involved. **REP. FUCHS** felt the bill would be able to tax portions of the economy and a sales tax would be beneficial.

REP. FORRESTER mentioned contracts with construction companies. He asked if there was a sum on the amount of taxes. **Don Hoffman** said the department had never done a study of the sum for taxes. He said numbers could range from 17 to 24% as the tax cut of which people actually pay.

REP. BUTCH WADDILL asked if the overall tax burden for Montana citizens was shifting from income to sales or would there be a relief. **Larry Finch** said it would depend upon the final form of the bill and this question was a difficult one to answer.

REP. JOHN ESP asked to translate the taxes per year. **Larry Finch** said the way the bill was drafted depends upon the timing of when the sales tax would begin to repeal the income tax.

REP. RON DEVLIN referred to page 14 of the bill and asked about the manufacturing process. **REP. FUCHS** said it pertains to what is purchased.

REP. DEVLIN asked if this would pertain to a vehicle bought.

REP. FUCHS explained the increase of revenue tax and how it would be effective.

REP. SCHMIDT asked about the tax shifting. **REP. FUCHS** explained the transfer that would occur.

Closing by Sponsor:

REP. DANIEL FUCHS, HD 15, BILLINGS, emphasized the need for this legislation for the state. He felt it would help with the tax structure of economic growth for the state.

HEARING ON HB 635

Sponsor: **REP. DANIEL FUCHS, HD 15, BILLINGS**

Proponents: **None**

Opponents: **Don Judge, AFL-CIO**
Mike Fellows

Opening Statement by Sponsor:

REP. DANIEL FUCHS, HD 15, BILLINGS, said this bill was a constitutional amendment for the ballot to raise the sales tax and have the cap at 5%. He explained how this legislation would relate to HB 636. He referred to the fiscal note and said based upon the distribution portion, if people were to raise the sales tax to 5% there would be a 10% reduction of property taxes and additional revenue available to implement the tax.

{Tape 2; Side B}

Proponents' Testimony: **None**

Opponents' Testimony:

Don Judge, AFL-CIO, talked about the trust of Montanans for implementing the sales tax. He gave reasons this bill should not pass. He mentioned the deductibles that would not be taxed and the effect on the industry this legislation would have. He felt this bill would not be amended and it would not be as adjustable if HB 636 passed.

Mike Fellows handed in a written testimony **EXHIBIT (tah63a03)**.

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. DANIEL FUCHS, HD 15, BILLINGS, felt this would be effective only if passed to untie the hands of tax reform. He suggested to the committee there was no current sales tax and if this didn't pass, a sunset clause could be added for no cap on a sales tax.

EXECUTIVE ACTION ON HB 617

Motion: **REP. BALLYEAT** moved HB 617 BE AMENDED. A letter was handed out regarding this bill **EXHIBIT(tah63a04)**. A letter from John Berthoud was handed out **EXHIBIT(tah63a05)** and a note from Jim Standaert **EXHIBIT(tah63a06)**. Amendments were presented to the committee **EXHIBIT(tah63a07)**.

Discussion:

REP. BALLYEAT explained the letters handed out and the amendment. He mentioned the holding tables within the Department of Revenue and how it would offer eligibility for 5% lower rates.

REP. ERICKSON reminded the committee of Section 598 of the amendment. He said it correlates with the exclusion from income.

REP. ESP asked if the section would decrease it to one. **REP. ERICKSON** answered yes and he explained the technical amendment.

Vote: Motion carried unanimously.

Motion: **REP. BALLYEAT** moved HB 617 DO PASS AS AMENDED.

Discussion:

REP. CARNEY pointed out the handout pertaining to households. She discussed the average wage in her county and the services lost.

REP. ROGER SOMERVILLE mentioned a discussion after the special session and the topic of income taxes.

REP. BALLYEAT reflected upon the page pertaining to households and said it relates to taxable income. **REP. ERICKSON** felt this bill was complicated and he was concerned of the fiscal impact.

Vote: Motion carried 11-9 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. DEVLIN, REP. LASLOVICH, REP. SCHMIDT, REP. WANZENRIED and CHAIRMAN STORY voting no.

EXECUTIVE ACTION ON HB 428

{Tape 3; Side A} - Continued Discussion on HB 617

{Tape 3; Side B}

Motion/Vote: REP. FORRESTER moved to bring HB 428 off of table. Motion carried 14-6 with REP. ERICKSON, REP. CYR, REP. DEVLIN, REP. ESP, REP. JACKSON and CHAIRMAN STORY voting no.

Discussion:

Motion: REP. FORRESTER moved HB 428 BE AMENDED.

REP. FORRESTER explained the background of the bill and the amendment previously handed out during the hearing. He added the amendment corrects the technical note.

Vote: Motion carried unanimously.

Discussion:

Motion: REP. FORRESTER moved HB 428 DO PASS AS AMENDED.

REP. FORRESTER felt this bill would lower the taxes. He added it would retain people in the state and assist economic growth.

REP. WAITSCHIES agreed with the sponsor, but felt the bill would offer a bad return.

REP. LASLOVICH liked the purposes of discussion.

REP. ESP didn't think this bill should be presented to the House floor.

REP. ERICKSON thought this bill was good to work with the marginal rate. He didn't think the state could support the bill.

Vote: Motion failed 8-11 with REP. BALYEAT, REP. BRANAE, REP. DALE, REP. FORRESTER, REP. FUCHS, REP. LASLOVICH, REP. WADDILL and REP. WANZENRIED voting aye.

Motion: REP. DEVLIN moved HB 428 BE TABLED by reversing above vote 11-8.

EXECUTIVE ACTION ON HB 591

Motion: REP. DEVLIN moved HB 591 DO PASS. He handed out information regarding energy crisis and the history **EXHIBIT**(tah63a08).

Discussion:

Motion: REP. CARNEY moved HB 591 BE AMENDED. A newspaper article was handed out **EXHIBIT**(tah63a09) and amendments for this bill **EXHIBIT**(tah63a10).

REP. CARNEY explained the amendments and motioned Sections one through seven and 12 through 16. She directed the committee's attention to the newspaper article. She felt a compliance standard would be a big mistake and gave an example of the mine in Libby.

REP. WAITSCHIES wondered about the certificate of environmental compliability. REP. CARNEY explained the law applied and the permit done.

REP. JACKSON needed clarification. He mentioned compliance audits he had used. REP. CARNEY mentioned the companies from the past years and how the state didn't work well with them then.

{Tape 4; Side A}

Vote: Motion AMENDMENTS 1-7, 12-16 failed 9-11 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT, REP. WADDILL and REP. WANZENRIED voting aye.

REP. CARNEY wanted to change six months back to twelve months.

Motion: REP. CARNEY moved 8,9,10 and 11 of the amendments.

REP. ERICKSON wondered if this meant they would need a permit by the E.I.S.

WITHDRAWN MOTION: REP. CARNEY withdrew her motion to move 8,9,10 and 11 amendments.

Motion: CHAIRMAN STORY moved HB 591 BE AMENDED. Amendments HB59103.ajm were presented to the committee **EXHIBIT(tah63a11)**. He also handed out a letter from the sponsor of the bill **EXHIBIT(tah63a12)**.

Discussion:

CHAIRMAN STORY explained the clarification of the amendments.

Vote: Motion carried 18-2 with REP. LASLOVICH and REP. WANZENRIED voting no.

ADJOURNMENT

Adjournment: 11:51 A.M.

REP. BOB STORY, Chairman

CECILE M. TROPILA, Transcriptionist

BS/RV

EXHIBIT (tah63aad)